

INITIATION OF LEGISLATION

This petition amends Act 118 of 1893, MCL 800.33, to repeal truth-in-sentencing, which currently does not apply to the entire prison population. **This Liberty and Justice For All Act** would allow all prisoners, regardless of the date on which they were sentenced, the right to earn time off of their sentences by incentivizing good behavior, academic and professional achievement. This legislation makes special allocations for prisoners sentenced as minors to serve time as an adult. It also makes special allocations for honorably discharged military veterans, mentally ill, disabled elderly prisoners.

A bill to amend 1893 PA 118. Entitled

An act to revise and consolidate the laws relative to state prisons, state houses of correction and branches of state prisons and reformatories and the government and discipline thereof and to repeal all acts inconsistent therewith By amending section 33 (MCL 800.33), as amended by 1999 PA 148; and to repeal acts and parts of acts

FOR THE TEXT OF THE PROPOSED LEGISLATION Act 118 of 1893, MCL 800.33

"The People of the State of Michigan enact:"

Sec 33 (1) A record of all major misconduct charges for which a prisoner has been found guilty shall be maintained and given to the parole board as part of the parole eligibility report prepared for each prisoner pursuant to section 35 of 1953 PA 232, MCL 791.235.

(2) Except as otherwise provided in this section, a prisoner who is serving a sentence for a crime committed before April 1, 1987 **WITHIN THE STATE OF MICHIGAN'S JURISDICTION**, and who has not been found guilty of a major CLASS I misconduct or had a violation of the laws of this state recorded against him or her shall receive EARNED CREDITS AS a reduction from his or her sentence as follows:

found guilty of a major **CLASS I** misconduct or had a violation of the laws of this state recorded against him or her shall receive **EARNED CREDITS AS** a reduction from his or her sentence as follows:

(a) During the first and second years of his or her sentence, 5 days for each month.

(b) During the third and fourth years, 6 days for each month.

(c) During the fifth and sixth years, 7 days for each month.

(d) During the seventh, eighth, and ninth years, 9 days for each month.

(e) During the tenth, eleventh, twelfth, thirteenth, and fourteenth years, 10 days for each month.

(f) During the fifteenth, sixteenth, seventeenth, eighteenth, and nineteenth years, 12 days for each month.

(g) From and including the twentieth year, up to and including the period fixed for the expiration of the sentence, 15 days for each month

(h) **PRISONERS WHO WERE SENTENCED AS ADULTS FOR A CRIME COMMITTED AT THE AGE OF 17 OR YOUNGER MUST RECEIVE AN ADDITIONAL 20% OF THEIR BASE CREDITS EARNED AT TENTH YEAR OF HIS OR HER SENTENCE**

(i) **PRISONERS WHO ARE HONORABLY DISCHARGED MILITARY VETERANS MUST RECEIVE AN ADDITIONAL 10% OF THEIR BASE CREDITS EARNED AFTER THE COMPLETION OF THE FIRST YEAR OF HIS OR HER SENTENCE**

(3) Except as provided in section 34, all prisoners serving a sentence for a crime that was committed on or after April 1, 1987, are eligible to earn disciplinary and special disciplinary credits as provided in subsection ~~(5)~~ **(8)**

(4) PRISONERS WHO ARE INELIGIBLE FOR GOOD TIME, DISCIPLINARY CREDITS OR SPECIAL DISCIPLINARY CREDITS AS PROVIDED IN SUBSECTIONS (6), (8) OR (9) SHALL RECEIVE EARNED CREDITS AS PROVIDED IN SUBSECTIONS (2), (14) AND (15).

(5) PRISONERS WHO ARE INELIGIBLE FOR EARNED CREDITS AS PROVIDED IN SUBSECTIONS (2), (14) OR (15) MUST RECEIVE SPECIAL REHABILITATION CREDITS AS PROVIDED IN SUBSECTION (23).

~~(5)~~ **(6)** Disciplinary credits shall be earned, forfeited, and restored as provided in this section. Accumulated disciplinary credits shall be deducted from a prisoner's minimum and maximum sentence in order to determine his or her parole eligibility date and discharge date.

~~(4)~~ **(7)** This section shall not be construed to allow good time, disciplinary credits, ~~or~~ special disciplinary credits, **REHABILITATION CREDITS, OR SPECIAL REHABILITATION CREDITS** in cases of commuted sentences unless so stipulated in the executive order commuting the sentence.

~~(5)~~ **(8)** Except as provided in section 34, all prisoners serving a sentence on December 30, 1982, or incarcerated after December 30, 1982, for the conviction of a crime enumerated in section 33b(a) to (cc) of 1953 PA 232, MCL 791.233b, are eligible to earn a disciplinary credit of 5 days per month for each month served after December 30, 1982. Accumulated disciplinary credits shall be deducted from a prisoner's minimum and maximum sentence in order to determine his or her parole eligibility dates.

A prisoner shall not earn disciplinary credits under this subsection during any month in which the prisoner is found guilty of having committed a major **CLASS I** misconduct. The amount of disciplinary credits not earned as a result of being found guilty of a major **CLASS I** misconduct shall be limited to the disciplinary credits that would have been earned for the month in which the major **CLASS I** misconduct occurred. Any disciplinary credits not earned as a result of the prisoner being found guilty of a major **CLASS I** misconduct shall never be earned or restored. The warden may order that a prisoner found guilty of a major **CLASS I** misconduct, including but not limited to charges of rioting, inciting to riot, escape, homicide, or assault and battery, forfeit all or a portion of the disciplinary credits accumulated prior to the month in which the misconduct occurred. An order forfeiting accumulated disciplinary credits shall be based upon a review of the prisoner's institutional record **BY THE EARNED CREDIT REVIEW BOARD.**

The disciplinary credit committee, which is comprised of the prisoner's resident unit manager, custody officers in the resident unit with direct supervisory responsibilities over the prisoner, and the appropriate work or school assignment supervisor, shall be a part of the reclassification process and shall review, at least annually, the status of each prisoner in the housing unit who has forfeited disciplinary credits. The committee may recommend to the warden whether any forfeited disciplinary credits should be restored to the prisoner.

In addition to disciplinary credits, a prisoner eligible for disciplinary credits under this subsection may be awarded 2 days per month special disciplinary credits for good institutional conduct on the recommendation of the disciplinary credit committee and the concurrence of the warden based on an annual review of the prisoner's

institutional record. Special disciplinary credits shall not be awarded for any month in which a prisoner has e warden based on an annual review of the prisoner's institutional record. Special disciplinary credits shall not be awarded for any month in which a prisoner has been found guilty of a major **CLASS I** misconduct.

The department of corrections shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, necessary to implement this subsection not more than 180 days after December 30, 1982.

~~(6)~~ **(9)** On and after April 1, 1987, a prisoner shall not earn good time under this section during any month in which the prisoner is found guilty of having committed a major **CLASS I** misconduct. The amount of good time not earned as a result of being found guilty of a major **CLASS I** misconduct shall be limited to the amount of good time that would have been earned during the month in which the major **CLASS I** misconduct occurred. Any good time not earned as a result of the prisoner being found guilty of a major **CLASS I** misconduct shall never be earned or restored.

~~(7)~~ **(10)** The department of corrections shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, prescribing how much of his or her accumulated good time or accumulated disciplinary credits the prisoner may forfeit if found guilty of 1 or more major **CLASS I** misconducts.

(8) (11) The warden may order that a prisoner found guilty of a major misconduct forfeit all or a portion of the good time accumulated prior to the month in which the misconduct occurred **SUBJECT APPROVAL OF THE EARNED CREDIT REVIEW BOARD.**

~~(9)~~ **(12)** The good time committee, which is comprised of the prisoner's resident unit manager, custody officer in the resident unit with direct supervisory responsibility over the prisoner, and the appropriate work or school assignment supervisor shall be part of the reclassification process. The good time committee shall recommend to the warden the amount of special good time to be awarded and the restoration of any accumulated good time that has been forfeited.

~~(10)~~ **(13)** The warden OR EARNED CREDIT REVIEW BOARD, as a reward for good conduct, may restore to a prisoner the whole or any portion of the **REHABILITATION CREDITS**, good time or disciplinary credits forfeited because of a finding of guilty for a major **CLASS I** misconduct. However, forfeited good time or disciplinary credits, **OR REHABILITATION CREDITS** shall not be restored without the recommendation of the disciplinary credit committee, or good time committee OR REHABILITATION CREDIT COMMITTEE and the prior written approval of the deputy director in charge of the bureau of correctional facilities or the deputy director in charge of the bureau of field services. Disciplinary credits, **REHABILITATION CREDITS** or good time allowances that have not been earned because of **CLASS I** institutional misconduct shall not be restored.

(14) REHABILITATION CREDITS SHALL BE EARNED, FORFEITED, AND RESTORED AS PROVIDED IN THIS SUBSECTION. ACCUMULATED REHABILITATION CREDITS SHALL BE DEDUCTED FROM A PRISONER'S MINIMUM AND MAXIMUM SENTENCE IN ORDER TO DETERMINE HIS OR HER PAROLE ELIGIBILITY DATE AND DISCHARGE DATE. PRISONERS WHO ARE INELIGIBLE FOR GOOD TIME, DISCIPLINARY CREDITS OR SPECIAL DISCIPLINARY CREDITS AS PROVIDED IN SUBSECTIONS (8) OR (9) MAY RECEIVE REHABILITATION CREDITS AS FOLLOWS:

(a) PRISONERS WHO HAVE EARNED A HIGHER EDUCATION DEGREE MUST RECEIVE AN ADDITIONAL 10% OFF OF THEIR BASE REHABILITATION CREDITS EARNED AT THE TIME OF THEIR DEGREE COMPLETION

(b) PRISONERS WHO HAVE EARNED REHABILITATION CREDITS UNDER SUBSECTION (a) AND CONTINUED TO EARN ANY ADDITIONAL HIGHER EDUCATION DEGREES MUST RECEIVE AN ADDITIONAL 10% OF THEIR BASE REHABILITATION CREDITS EARNED AT THE TIME OF THEIR DEGREE COMPLETION FOR EACH ADDITIONAL DEGREE EARNED

(c) PRISONERS WHO HAVE EARNED A CERTIFICATION MUST RECEIVE AN ADDITIONAL 10% OF THEIR BASE REHABILITATION CREDITS EARNED AT THE TIME OF THEIR CERTIFICATE COMPLETION

(15) PRISONERS WHO ARE EMPLOYED WITHIN THE PRISON, FOR THE PRISON, WORKING IN A TRAINING PROGRAM, ENROLLED IN A VOCATIONAL PROGRAM, OR OTHERWISE PROVIDE LABOR FOR A COMPANY UNDER CONTRACT WITH THE PRISON, WHILE INCARCERATED SHALL RECEIVE REHABILITATION CREDITS TOWARDS A REDUCTION FROM HIS OR HER SENTENCE AS FOLLOWS:

(a) DURING THE FIRST YEAR, 5 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(b) DURING THE SECOND CONSECUTIVE YEAR, 6 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(c) DURING THE THIRD CONSECUTIVE YEAR, 7 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(d) DURING THE FOURTH CONSECUTIVE YEAR, 8 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(e) DURING THE FIFTH CONSECUTIVE YEAR, 9 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(f) DURING THE SIXTH CONSECUTIVE YEAR, 10 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(g) DURING THE SEVENTH CONSECUTIVE YEAR, 11 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(h) DURING THE EIGHTH CONSECUTIVE YEAR, 12 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(i) DURING THE NINTH CONSECUTIVE YEAR, 13 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(j) DURING THE TENTH CONSECUTIVE YEAR, 14 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(k) FROM AND INCLUDING THE ELEVENTH CONSECUTIVE YEAR, UP TO THE EXPIRATION OF POSITION OR PROGRAM, 15 DAYS FOR EACH MONTH EMPLOYED OR ENROLLED

(16) A PRISONER SHALL NOT EARN REHABILITATION CREDITS UNDER SUBSECTION (15) DURING ANY MONTH IN WHICH THE PRISONER IS FOUND GUILTY OF HAVING COMMITTED A MAJOR CLASS I MISCONDUCT. THE AMOUNT OF REHABILITATION CREDITS NOT EARNED AS A RESULT OF BEING FOUND GUILTY OF A MAJOR CLASS I MISCONDUCT SHALL BE LIMITED TO THE AMOUNT OF REHABILITATION CREDITS THAT WOULD HAVE BEEN EARNED DURING THE MONTH IN WHICH THE MAJOR CLASS I MISCONDUCT OCCURRED. ANY REHABILITATION CREDITS NOT EARNED AS A RESULT OF THE PRISONER BEING FOUND GUILTY OF A MAJOR CLASS ONE MISCONDUCT SHALL NEVER BE EARNED OR RESTORED.

(17) THE DEPARTMENT OF CORRECTIONS MANY PROMULGATE RULES PURSUANT TO THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO 24.328 PRESCRIBING HOW MUCH OF HIS OR HER ACCUMULATED GOOD TIME, DISCIPLINARY CREDITS OR REHABILITATION CREDITS THE PRISONER MAY FORFEIT IF FOUND GUILTY OF 1 OF MORE CLASS I MISCONDUCTS

(18) THE REHABILITATION COMMITTEE, WHICH IS COMPROMISED OF THE PRISONER'S ASSIGNED COUNSELOR IN THE UNIT, THE APPROPRIATE WORK OR SCHOOL ASSIGNMENT SUPERVISOR, AND SELF IMPROVEMENT PROGRAM SUPERVISOR SHALL BE A PART OF THE RECLASSIFICATION PROCESS AND SHALL REVIEW, AT LEAST ANNUALLY, THE STATUS OF EACH PRISONER IN THE HOUSING UNIT WHO HAS EARNED REHABILITATION CREDITS. SELF IMPROVEMENT PROGRAMS INCLUDE BUT ARE NOT LIMITED TO ARTS, CULTURAL, EDUCATIONAL OR RELIGIOUS PROGRAMS SUPERVISED BY TRAINED PERSONNEL. THE COMMITTEE MAY RECOMMEND TO THE EARNED CREDIT REVIEW BOARD WHETHER ANY FORFEITED REHABILITATION CREDITS SHOULD BE RESTORED TO THE PRISONER.

(19) A PRISONER MUST NOT EARN REHABILITATION CREDITS UNDER THIS SUBSECTION DURING ANY MONTH IN WHICH THE PRISONER DOES NOT HAVE A GED, IS NOT ENROLLED IN CLASSES TO EARN A GED, OR IS NOT ON THE WAITING LIST TO BE ENROLLED IN CLASSES REQUIRED TO EARN A GED. INSTITUTIONAL WAIVERS FOR ELDERLY PRISONERS AND MENTALLY DISABLED PRISONERS ARE EXCLUDED FROM THIS SUBSECTION.

(20) A PRISONER MUST NOT EARN REHABILITATION CREDITS UNDER THIS SUBSECTION DURING ANY MONTH IN WHICH THE PRISONER IS REMOVED FROM ANY DEPARTMENT OF CORRECTIONS MANDATED PROGRAMMING. THIS REMOVAL INCLUDES REFUSING TO PARTICIPATE IN THE PROGRAM AND REMOVAL FOR BEHAVIORAL ISSUES. INSTITUTIONAL NEEDS REQUIRING

THE PRISONER TO BE REMOVED FROM THE PROGRAM ARE EXCLUDED FROM THIS SUBSECTION

(21) A PRISONER MUST NOT EARN REHABILITATION CREDITS UNDER THIS SUBSECTION DURING ANY MONTH IN WHICH THE PRISONER IS TERMINATED FROM A JOB IN THE DEPARTMENT OF CORRECTIONS DUE TO THEIR OWN BEHAVIOR. INSTITUTIONAL NEEDS, RECLASSIFICATION AND VOLUNTARY FORFEITING THE JOB WILL BE EXCLUDED FROM THIS SUBSECTION

(22) THE AMOUNT OF REHABILITATION CREDITS NOT EARNED AS A RESULT OF VIOLATING SUBSECTIONS (20), (21), OR (22) MUST BE LIMITED TO THE AMOUNT OF REHABILITATION CREDITS THAT WOULD HAVE BEEN EARNED DURING THE MONTH IN WHICH THE VIOLATION OCCURRED.

(23) PRISONERS WHO ARE EXCLUDED FROM SECTIONS (8) OR (9) AND WHO DO NOT RECEIVE REHABILITATION CREDITS UNDER SECTIONS (14) OR (15) DUE TO THEIR PHYSICAL DISABILITY, MENTAL ILLNESS, AGE, BEING HOUSED IN SOLITARY CONFINEMENT OR OTHERWISE INELIGIBILITY MUST RECEIVE SPECIAL REHABILITATION CREDITS TOWARDS A REDUCTION FROM HIS OR HER SENTENCE AS FOLLOWS:

(a) FOR EVERY MONTH THAT THEIR CELL IS CLEAN, 5 DAYS FOR EACH MONTH

(b) FOR EVERY MONTH THAT THEIR MEALS ARE EATEN, 6 DAYS FOR EACH MONTH

(c) FOR EVERY MONTH THAT THEIR MEDICATION IS CONSUMED, 7 DAYS FOR EACH MONTH

(d) FOR EVERY MONTH THAT THEY ARE HOUSED IN A LOWER SECURITY LEVEL, 8 DAYS FOR EACH MONTH

(e) PRISONERS WHO ARE ENROLLED IN S.T.A.R.T., INPATIENT, OUTPATIENT OR OTHERWISE MENTAL HEALTH CARE PROGRAM MUST RECEIVE AN ADDITIONAL 10% OF THEIR BASE CREDITS EARNED AT THE TIME OF HIS OR HER PROGRAM COMPLETION

(24) THE DEPARTMENT OF CORRECTIONS SHALL PROMULGATE RULES UNDER THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 P# 306, MCL 24.201 TO 24.328 PRESCRIBING

HOW MUCH OF HIS OR HER ACCUMULATED EARNED CREDITS IF FOUND GUILTY OF VIOLATING SUBSECTION (8), (9), OR (16)

~~(11)~~ (25) A prisoner who has been sentenced concurrently for separate convictions shall **MUST** have his or her good time, or disciplinary, **OR REHABILITATION** credits computed on the basis of the longest of the concurrent sentences. If a prisoner is serving consecutive sentences for separate convictions, his or her good time or disciplinary, **OR REHABILITATION** credits shall be computed and accumulated on each sentence individually and all good time, or disciplinary **OR REHABILITATION** credits that have been earned on any of the sentences shall be subject to forfeiture pursuant to subsections (5) and, (17), (18), and

(19).

(26) UPON REQUEST SUBMITTED BY A PRISONER A CONDUCT REVIEW SHALL BE DONE BY THE EARNED CREDIT REVIEW BOARD AFTER SUCH PRISONER IS FOUND GUILTY OF A MAJOR CLASS I MISCONDUCT AT WHICH A PORTION OR ALL OF ANY CREDITS FORFEITED PRIOR TO THE MONTH IN WHICH THE MISCONDUCT OCCURRED CAN BE RESTORED.

(27) THE EARNED CREDIT REVIEW BOARD IS COMPRISED OF A SELECTION OF MEMBERS WHO HAVE NO PRIOR HISTORY OF EMPLOYMENT WITHIN THE POLICE DEPARTMENT OR

DEPART- MENT OF CORRECTIONS AND ONE MEMBER FROM THE SECURITY CLASSIFICATION COMMITTEE.

(28) THE EARNED CREDIT REVIEW BOARD SHALL BE EXCLUSIVELY EMPOWERED TO CAUSE THE RESTORATION OF EARNED CREDITS ORDERED TO BE FORFEITED BY A PRISONER.

CREDITS SHALL NOT BE AWARDED FOR ANY MONTH IN WHICH A PRISONER HAS BEEN FOUND GUILTY OF A MAJOR CLASS I MISCONDUCT.

(29) IN ADDITION TO REHABILITATION CREDITS, DISCIPLINARY CREDITS OR GOOD TIME, A PRISONER ELIGIBLE FOR SPECIAL EARNED CREDITS UNDER SECTION (24) MAY BE AWARDED 2

DAYS PER MONTH SPECIAL EARNED CREDITS BY THE EARNED CREDIT REVIEW BOARD BASED ON THE REVIEW OF THE PRISONERS INSTITUTIONAL RECORD, AT LEAST ANNUALLY.

SPECIAL EARNED CREDITS SHALL NOT BE AWARDED FOR ANY MONTH IN WHICH A PRISONER HAS BEEN FOUND GUILTY OF A MAJOR CLASS I MISCONDUCT

~~(12)~~ (30) The warden of an institution may grant special allowances to eligible prisoners ~~who are convicted of a crime that is committed before April 1, 1987~~. Special good time **EARNED** credit shall not exceed 50% of the allowances under the schedule in subsection (2). Special **EARNED CREDIT** shall be awarded for good conduct only and shall not be awarded for any month in which a prisoner has been found guilty of a major **CLASS I** misconduct.

~~(13)~~ (31) The parole board shall be exclusively empowered to cause the forfeiture of good time, or disciplinary OR REHABILITATION credits earned by a prisoner at the time of a parole violation.

~~(14)~~ (32) A prisoner subject to disciplinary time, is not eligible for good time, special good time, disciplinary credits, or special disciplinary credits

(33) A PRISONER WHO IS NOT ELIGIBLE FOR DISCIPLINARY TIME, GOOD TIME, SPECIAL GOOD TIME, DISCIPLINARY CREDITS, OR SPECIAL DISCIPLINARY CREDITS IS ELIGIBLE FOR REHABILITATION CREDITS AND SPECIAL REHABILITATION CREDITS

~~(15)~~ (34) The court may order the reduction or forfeiture of 1 or more of the following credits pursuant to section 5513 of the revised judicature act of 1961, 1961 PA 236, MCL 600.5513:

(a) Good time.

(b) Disciplinary.

(c) Special disciplinary.

(35) THE DEPARTMENT OF CORRECTIONS MUST RECALCULATE THE PAROLE ELIGIBILITY DATE AND DISCHARGE DATE FOR EACH PRISONER SERVING A SENTENCE ON THE EFFECTIVE DATE

OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION WHO BECOMES ELIGIBLE FOR REHABILITATION CREDITS UNDER SUBSECTION (2), (11) AND (12) AS A RESULT OF THE AMENDATORY ACT THAT ADDED THIS SUBSECTION

Enacting section 1 Sections 34 and 35 of the 1893 PA MCL 800.34 and 800.35 are repealed effective 90 days after the date of this amendatory act is enacted into law

Enacting section 2 This amendatory act takes effect 90 days after the date it is enacted into law